

1 James P. Walsh, CSB. No. 184620
2 Gwen Fanger, CSB No. 191161
2 **DAVIS WRIGHT TREMAINE LLP**
3 505 Montgomery Street, Suite 800
3 San Francisco, California 94111-3611
4 Telephone: (415) 276-6500
4 Facsimile: (415) 276-6599
5 budwalsh@dwt.com

6 Attorneys for Defendants and Claimant
7 BARRY COHEN, CHRIS COHEN (aka CHRISTENE COHEN), the F/V POINT LOMA and
7 Claimant, F/V POINT LOMA Fishing Company, Inc.

8 **COX, WOOTTON, GRIFFIN,**
9 **HANSEN & POULOS LLP**
9 Gregory W. Poulos (SBN 131428)
10 Max L. Kelley (SBN 205943)
10 190 The Embarcadero
11 San Francisco, CA 94105
11 Telephone No.: 415-438-4600
12 Facsimile No.: 415-438-4601

13 Attorneys for Plaintiff
13 DEL MAR SEAFOODS, INC

14 UNITED STATES DISTRICT COURT

15 FOR THE NORTHERN DISTRICT OF CALIFORNIA

16 SAN FRANCISCO DIVISION

17 DEL MAR SEAFOODS, INC.,) No. C-07-2952-WHA
18 Plaintiff,)
19 v.) [PROPOSED] FORM OF JUDGMENT
20 BARRY COHEN, CHRIS COHEN (aka)
21 CHRISTENE COHEN), *in personam* and,)
21 F/V POINT LOMA, Official Number)
22 515298, a 1968 steel-hulled, 126-gross ton,)
22 70.8 foot long fishing vessel, her engines,)
23 tackle, furniture apparel, etc., *in rem*, and)
23 Does 1-10,)
24 Defendants.)

25 Pursuant to the Court's order set forth in its Findings of Fact and Conclusions of Law,
26 dated June 19, 2008, the parties jointly submit the following Proposed Form of Judgment.

27

28

[PROPOSED] FORM OF JUDGMENT

This matter was tried before the Court on May 20, 22, and 23, 2008. Closing arguments were held on June 17, 2008. On June 19, 2008, the Court issued its Findings of Fact and Conclusions of Law After Bench Trial.

The Court hereby enters judgment as follows:

1. Defendants are not in breach of their promissory note in favor of Plaintiff.
 - a. The total amount unpaid under the note is \$65,066.81, which amount is a debt secured by the ship mortgage given by Defendants to Plaintiff.
 - b. No interest is due on the note; interest has been waived by Plaintiff.
 - c. Because of previous payments, Defendants would be obligated to begin making monthly payments on the promissory note sometime in 2009. The amount remaining on the note, however, shall be paid by Defendants as an offset in accordance with paragraph 5 below.
2. Defendants are obligated to Plaintiff for unsecured debts in the amount of \$63,681.26, which amount is now due and owing and shall be paid by Defendants as an offset in accordance with paragraph 5 below.
3. Because Defendants are not in breach of the promissory note and Plaintiff acted in bad faith, Plaintiff's arrest of Defendants' fishing vessel POINT LOMA was wrongful.
 - a. Plaintiff is liable for damages caused to Defendants in the amount of \$34,400.
 - b. Damages for the wrongful arrest shall be due and owing ten (10) days after this Court issues an order pursuant to paragraph 4, below.
4. Defendants, as the prevailing party in this case, are entitled to recover all reasonable attorney's fees and costs in defending this litigation and in prosecuting the counterclaim, in an amount to be subsequently determined by the Court. Such amount shall be paid by Plaintiff to Defendants within ten (10) days after this Court issues an order determining the amount to be paid.

5. All amounts owed by Defendants to Plaintiff as secured and unsecured debt shall be offset against the payment by Plaintiff of (a) the damages for the wrongful arrest; and (b) the amount of attorney's fees and costs awarded by the Court to Defendants.
6. Upon payment of (a) damages for the wrongful arrest and (b) attorney's fees and costs by Plaintiff to Defendants, as offset by Defendants' secured and unsecured debt to Plaintiff, all secured and unsecured debt shall be released and satisfied in full. The note and mortgage shall be discharged and Plaintiff shall cooperate with Defendants in preparing and submitting the necessary application for release of the ship mortgage to the United States Coast Guard.
7. After determination of the amount of attorney's fees and costs to be awarded, any unpaid amount of such attorney's fees and costs and any unpaid damages and interest for the wrongful arrest shall bear interest at 2.46% or the most current weekly average rate for the calendar week preceding the date of judgment¹.
8. This Court shall retain jurisdiction in this matter until final determination of the amount owed by Plaintiff for attorney's fees and costs.

DATED this 2nd day of July, 2008.

Respectfully submitted,
DAVIS WRIGHT TREMAINE LLP

By: /s/ Gwen Fanger

James P. Walsh
Gwen Fanger

Attorneys for Defendants and Claimant BARRY COHEN, CHRIS COHEN (aka CHRISTENE COHEN), the F/V POINT LOMA and Claimant, F/V POINT LOMA FISHING COMPANY, INC.

COX, WOOTTON, GRIFFIN, HANSEN & Poulos

By: /s/ Max Kelley
Gregory W. Poulos
Max J. Kelley

Attorneys for Plaintiff, DEL MAR SEAFOODS, INC.

¹ The rate of 2.46% is derived from the weekly average of the 1-year constant Treasury yield for the week ending June 27, 2008 as set forth in Attachment 1.

Attachment 1

Federal Reserve Statistical Release

H.15

Selected Interest Rates



MINT-6074

Release Date: June 30, 2008

[Release dates](#) | [Daily update](#) | [Historical data](#) | [Data Download Program \(DDP\)](#) | [About](#) | [Announcements](#)
Current release *Other formats:* [Screen reader](#) | [ASCII](#) | [PDF \(17 KB\)](#)

FEDERAL RESERVE STATISTICAL RELEASE

H.15 (519) SELECTED INTEREST RATES

For use at 2:30 p.m. Eastern Time

	June 30, 2008							
	2008	2008	2008	2008	2008	Week Ending		2
Instruments	Jun	Jun	Jun	Jun	Jun	Jun	Jun	M
	23	24	25	26	27	27	20	
Federal funds (effective) 1 2 3	1.98	1.93	1.97	2.05	1.99	1.97	1.98	1
Commercial Paper 3 4 5								
Nonfinancial								
1-month	2.17	2.16	2.22	2.16	2.16	2.17	2.17	1
2-month	2.22	n.a.	2.23	2.21	n.a.	2.22	2.18	2
3-month	2.29	n.a.	2.27	2.30	2.33	2.30	2.24	2
Financial								
1-month	2.33	2.36	2.33	2.37	2.41	2.36	2.37	2
2-month	2.53	2.65	2.57	2.58	2.56	2.58	2.58	2
3-month	2.70	2.78	2.72	2.83	2.71	2.75	2.75	2
CDs (secondary market) 3 6								
1-month	2.52	2.52	2.53	2.55	2.58	2.54	2.52	2
3-month	2.80	2.80	2.80	2.80	2.82	2.80	2.80	2
6-month	3.18	3.17	3.14	3.12	3.15	3.15	3.19	2
Eurodollar deposits (London) 3 7								
1-month	2.70	2.70	2.70	2.70	2.65	2.69	2.71	2
3-month	3.00	3.00	3.00	3.00	3.00	3.00	3.02	2
6-month	3.30	3.35	3.35	3.30	3.25	3.31	3.36	2
Bank prime loan 2 3 8	5.00	5.00	5.00	5.00	5.00	5.00	5.00	5
Discount window primary credit 2 9	2.25	2.25	2.25	2.25	2.25	2.25	2.25	2
U.S. government securities								
Treasury bills (secondary market) 3 4								
4-week	1.49	1.56	1.46	1.39	1.25	1.43	1.66	1
3-month	1.85	1.80	1.78	1.70	1.64	1.75	1.92	1
6-month	2.26	2.20	2.17	2.11	2.07	2.16	2.25	1
1-year	2.47	2.43	2.38	2.30	2.26	2.37	2.48	n
Treasury constant maturities								
Nominal 10								
1-month	1.55	1.58	1.49	1.42	1.29	1.47	1.70	1
3-month	1.87	1.83	1.81	1.74	1.68	1.79	1.95	1
6-month	2.31	2.25	2.22	2.16	2.12	2.21	2.31	1
1-year	2.57	2.53	2.48	2.39	2.35	2.46	2.57	2
2-year	2.98	2.87	2.82	2.68	2.65	2.80	2.94	2
3-year	3.27	3.14	3.11	2.97	2.92	3.08	3.24	2
5-year	3.65	3.52	3.54	3.44	3.36	3.50	3.64	3
7-year	3.87	3.76	3.78	3.69	3.62	3.74	3.87	3
10-year	4.19	4.10	4.12	4.07	3.99	4.09	4.20	3
20-year	4.77	4.70	4.72	4.67	4.58	4.69	4.81	4
30-year	4.71	4.65	4.65	4.62	4.53	4.63	4.75	4
Inflation indexed 11								

5-year	1.09	0.95	0.97	0.80	0.74	0.91	1.08	0
7-year	1.48	1.36	1.37	1.26	1.18	1.33	1.46	1
10-year	1.75	1.64	1.65	1.55	1.48	1.61	1.73	1
20-year	2.24	2.17	2.18	2.10	2.05	2.15	2.24	2
Inflation-indexed long-term average	12	2.25	2.17	2.18	2.10	2.06	2.15	2.24
Interest rate swaps	13							
1-year	3.33	3.33	3.34	3.19	3.14	3.27	3.38	2
2-year	3.80	3.81	3.83	3.62	3.56	3.72	3.85	3
3-year	4.13	4.15	4.17	3.97	3.92	4.07	4.18	3
4-year	4.35	4.35	4.38	4.20	4.15	4.28	4.40	3
5-year	4.48	4.48	4.52	4.34	4.29	4.42	4.53	3
7-year	4.66	4.66	4.70	4.55	4.51	4.62	4.71	4
10-year	4.84	4.84	4.87	4.75	4.70	4.80	4.88	4
30-year	5.14	5.14	5.17	5.07	5.02	5.11	5.18	4
Corporate bonds								
Moody's seasoned								
Aaa	14	5.73	5.68	5.67	5.67	5.61	5.67	5.74
Baa		7.12	7.08	7.08	7.07	7.03	7.08	7.14
State & local bonds	15				4.83		4.83	4.76
Conventional mortgages	16				6.45		6.45	6.42

n.a. Not available.

Footnotes

1. The daily effective federal funds rate is a weighted average of rates on brokered trades.
2. Weekly figures are averages of 7 calendar days ending on Wednesday of the current week; monthly figures include each calendar day in the month.
3. Annualized using a 360-day year or bank interest.
4. On a discount basis.
5. Interest rates interpolated from data on certain commercial paper trades settled by The Depository Trust Company. The trades represent sales of commercial paper by dealers or direct issuers to investors (that is, the offer side). The 1-, 2-, and 3-month rates are equivalent 30-, 60-, and 90-day dates reported on the Board's Commercial Paper Web page (www.federalreserve.gov/releases/cp/).
6. An average of dealer bid rates on nationally traded certificates of deposit.
7. Bid rates for Eurodollar deposits collected around 9:30 a.m. Eastern time.
8. Rate posted by a majority of top 25 (by assets in domestic offices) insured U.S.-chartered commercial banks. Prime is one of several base rates used by banks to price short-term business loans.
9. The rate charged for discounts made and advances extended under the Federal Reserve's prime credit discount window program, which became effective January 9, 2003. This rate replaces the adjustment credit, which was discontinued after January 8, 2003. For further information, see www.federalreserve.gov/boarddocs/press/bcreg/2002/200210312/default.htm. The rate reported is for the Federal Reserve Bank of New York. Historical series for the rate on adjustment credit as well as the rate on primary credit are available at www.federalreserve.gov/releases/h15/data.
10. Yields on actively traded non-inflation-indexed issues adjusted to constant maturities. The 30-year Treasury constant maturity series was discontinued on February 18, 2002, and reintroduced on February 9, 2006. From February 18, 2002, to February 9, 2006, the U.S. Treasury published a factor for adjusting the daily nominal 20-year constant maturity in order to estimate a 30-year nominal rate. The historical adjustment factor can be found at www.treas.gov/offices/domestic-finance/debt-management/interest-rate/ltcompositeindex_historic.

Source: U.S. Treasury.

11. Yields on Treasury inflation protected securities (TIPS) adjusted to constant maturities. Source: U.S. Treasury. Additional information on both nominal and inflation-indexed yields may be found at www.treas.gov/offices/domestic-finance/debt-management/interest-rate/index.html.

12. Based on the unweighted average bid yields for all TIPS with remaining terms to maturity more than 10 years.

13. International Swaps and Derivatives Association (ISDA(R)) mid-market par swap rates. Rate for a Fixed Rate Payer in return for receiving three month LIBOR, and are based on rates collated at 11:00 a.m. Eastern time by Garban Intercapital plc and published on Reuters Page ISDAFIX(R). ISDAFIX is a registered service mark of ISDA. Source: Reuters Limited.

14. Moody's Aaa rates through December 6, 2001, are averages of Aaa utility and Aaa industrial rates. As of December 7, 2001, these rates are averages of Aaa industrial bonds only.

15. Bond Buyer Index, general obligation, 20 years to maturity, mixed quality; Thursday quota.

16. Contract interest rates on commitments for fixed-rate first mortgages. Source: FHLMC.

Note: Weekly and monthly figures on this release, as well as annual figures available on the Board's historical H.15 web site (see below), are averages of business days unless otherwise specified.

Current and historical H.15 data are available on the Federal Reserve Board's web site (www.federalreserve.gov/). For information about individual copies or subscriptions, contact Publications Services at the Federal Reserve Board (phone 202-452-3244, fax 202-728-5886). For electronic access to current and historical data, call STAT-USA at 1-800-782-8872 or 202-482-

Description of the Treasury Nominal and Inflation-Indexed Constant Maturity Series

Yields on Treasury nominal securities at "constant maturity" are interpolated by the U.S. Treasury from the daily yield curve for non-inflation-indexed Treasury securities. This curve, which represents the yield on a security to its time to maturity, is based on the closing market bid yields on actively traded Treasury securities in the over-the-counter market. These market yields are calculated from composites of quotations obtained by the Federal Reserve Bank of New York. The constant maturity yield values are read from the yield curve at fixed maturities, currently 1 and 6 months and 1, 2, 3, 5, 7, 10, 20, and 30 years. This method provides a yield for a 10-year maturity, for example, even if no outstanding security has exactly 10 years remaining to maturity. Similarly, yields on inflation-indexed securities at "constant maturity" are interpolated from the daily yield curve for Treasury inflation protected securities in the over-the-counter market. Inflation-indexed constant maturity yields are read from this yield curve at fixed maturities currently 5, 7, 10, and 20 years.

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